



General Assembly

January Session, 2007

Raised Bill No. 1481

LCO No. 6426

06426_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING STATE REFEREES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 51-44a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) There is established a Judicial Selection Commission comprised
4 of twelve members. Six of the members shall be attorneys-at-law and
5 six of the members shall not be attorneys-at-law. Not more than six of
6 the members shall belong to the same political party. None of the
7 members shall be an elected or appointed official of the state or hold
8 state-wide office in a political party.

9 (b) The members of the commission shall be appointed as follows:
10 The Governor shall appoint six members, one from each congressional
11 district and one at-large member, three of whom shall be attorneys-at-
12 law and three of whom shall not be attorneys-at-law; the president pro
13 tempore of the Senate shall appoint one member who shall be an
14 attorney-at-law; the speaker of the House of Representatives shall
15 appoint one member who shall not be an attorney-at-law; the majority
16 leader of the Senate shall appoint one member who shall not be an

17 attorney-at-law; the majority leader of the House of Representatives
18 shall appoint one member who shall be an attorney-at-law; the
19 minority leader of the Senate shall appoint one member who shall not
20 be an attorney-at-law; and the minority leader of the House of
21 Representatives shall appoint one member who shall be an attorney-at-
22 law.

23 (c) The members of the commission shall elect a chairperson from
24 among the members appointed by the Governor.

25 (d) (1) The members of the commission shall serve for terms of three
26 years.

27 (2) Members appointed on or after June 26, 2003, shall serve for
28 terms of three years and, notwithstanding the provisions of section 4-1,
29 until their successors are appointed and have qualified or ninety days
30 after the completion of their terms, whichever is earlier.

31 (3) Members serving on June 26, 2003, shall continue to serve as
32 members until the end of their terms and, notwithstanding the
33 provisions of section 4-1, until their successors are appointed and have
34 qualified or ninety days after the completion of their terms, whichever
35 is earlier, except that members serving on June 26, 2003, who have
36 completed their terms and are serving until their successors are
37 appointed and have qualified shall, notwithstanding the provisions of
38 section 4-1, continue to serve until their successors are appointed and
39 have qualified, but not later than January 1, 2004.

40 (4) Any vacancy in the membership of the commission shall be filled
41 for the unexpired portion of the term by the appointing authority. The
42 members of the commission shall receive no compensation for their
43 services but shall be reimbursed for any necessary expenses incurred
44 in the performance of their duties.

45 (5) No member of the commission may serve consecutive terms,
46 except that if, on or after June 26, 2003, a person is appointed a

47 member of the commission to fill a vacancy and complete an
48 unexpired term, such person may serve an additional term. If a
49 commission member is an attorney, no member of the commission
50 member's firm may serve a term consecutive to such commission
51 member.

52 (e) The commission shall evaluate incumbent judges who seek
53 reappointment to the same court, and incumbent state referees who
54 seek reappointment, and shall forward to the Governor for
55 consideration the names of incumbent judges and state referees who
56 are recommended for reappointment as provided in this subsection.
57 The commission shall adopt regulations, in accordance with the
58 provisions of chapter 54, concerning criteria by which to evaluate
59 incumbent judges who seek reappointment to the same court [;
60 provided pending adoption of such regulations, the commission shall
61 use criteria established prior to June 22, 1989, for the evaluation of such
62 judges] and incumbent state referees who seek reappointment. In
63 evaluating the reappointment of an incumbent judge or state referee,
64 the commission shall consider the legal ability, competence, integrity,
65 character and temperament of such judge or state referee and any
66 other relevant information concerning such judge or state referee.
67 There shall be a presumption that each incumbent judge who seeks
68 reappointment to the same court qualifies for retention in judicial
69 office. The burden of rebutting such presumption shall be on the
70 commission. Such presumption shall not apply to incumbent state
71 referees who seek reappointment. The commission shall investigate
72 and interview each incumbent judge and state referee who seeks
73 reappointment and, prior to the expiration of a term of office of such
74 judge or state referee, shall recommend such incumbent judge or state
75 referee for nomination for reappointment by the Governor [to the same
76 court] unless, as provided in this subsection, recommendation of such
77 judge or state referee is denied. If a preliminary examination indicates
78 further inquiry is necessary before a recommendation of
79 reappointment may be made, the commission shall hold a hearing
80 concerning the reappointment of such judge or state referee. The

81 commission shall send notice to the judge or state referee by certified
 82 or registered mail, return receipt requested, not less than one hundred
 83 eighty days prior to the convening of such legislative session which is
 84 to consider the reappointment of the incumbent judge or state referee,
 85 (A) that a hearing by the commission on such reappointment shall be
 86 held and of the time, date and place of such hearing, which shall be not
 87 less than thirty days [nor] or more than forty-five days after the date of
 88 such notice, and (B) of specific claims made against the judge or state
 89 referee. The commission shall make a record of all hearings conducted
 90 pursuant to this subsection. The hearing may be open to the public at
 91 the request of the judge or state referee. For the purposes of
 92 conducting a hearing under this subsection, not less than ten members
 93 of the commission shall be present and voting. A judge or state referee
 94 appearing before such a hearing shall be entitled to counsel, to present
 95 evidence and to cross-examine witnesses who appear voluntarily. No
 96 judge or state referee shall be required to sign or execute any release in
 97 order to proceed with the hearing. The commission shall, not later than
 98 twenty days after the close of such hearing, render its decision whether
 99 it shall recommend such incumbent judge or state referee for
 100 nomination for reappointment by the Governor. Any affirmative vote
 101 of a majority plus one of the members present and voting shall be
 102 required to deny recommendation to the Governor for nomination of
 103 an incumbent judge to the same court or an incumbent state referee. A
 104 judge or state referee who has not received approval by the
 105 commission may, within ten days after receipt of the notice of decision,
 106 which shall include a record of the numerical vote, request a rehearing
 107 on the grounds that the conclusions of the commission are contrary to
 108 the evidence presented at the hearing or the commission failed to
 109 comply with the procedural or substantive requirements of this
 110 section. The decision of the commission shall be final. There shall be no
 111 right of appeal by any judge or state referee appearing before the
 112 commission, at law or in equity, or any resort to any court following
 113 the decision of the commission.

114 (f) Except as provided in subsection (e) of this section, the

115 commission shall seek qualified candidates for consideration by the
116 Governor for nomination as judges for the Superior Court, Appellate
117 Court and Supreme Court. The commission shall adopt regulations, in
118 accordance with the provisions of chapter 54, concerning criteria by
119 which to evaluate the qualifications of candidates, including
120 incumbent judges who seek appointment to a different court. The
121 commission shall investigate and interview the candidates, including
122 incumbent judges seeking appointment to a different court. A list of
123 such qualified candidates shall be compiled by the commission.

124 (g) In connection with any inquiry concerning the reappointment of
125 an incumbent judge or state referee, the commission shall have the
126 power to issue subpoenas requiring the attendance of witnesses and
127 the production of any books or papers which in the judgment of the
128 commission are relevant to the inquiry. The commission may, upon
129 request of the judge or state referee whose reappointment is at issue,
130 issue a subpoena on behalf of such judge or state referee. If any person
131 disobeys such process or, having appeared in obedience thereto,
132 refuses to answer any pertinent question put to [him] such person by
133 the commission [,] or to produce any books and papers pursuant
134 thereto, the commission, on its own behalf or on behalf of the judge or
135 state referee, may apply to the superior court for the judicial district of
136 Hartford setting forth such disobedience to process or refusal to
137 answer, and [said] the court may cite such person to appear before
138 [said] the court to answer such question or to produce such books and
139 papers and, upon [his] such person's refusal so to do, shall commit
140 [him] such person to a community correctional center, there to remain
141 until [he] such person so testifies.

142 (h) (1) Judges of all courts, except those courts to which judges are
143 elected, shall be nominated by the Governor exclusively from the list of
144 candidates or incumbent judges submitted by the Judicial Selection
145 Commission. Any candidate or incumbent judge who is nominated
146 from such list by the Governor to be Chief Justice of the Supreme
147 Court, and who is appointed Chief Justice by the General Assembly,

148 shall serve a term of eight years from the date of appointment. The
149 Governor shall nominate a candidate for a vacancy in a judicial
150 position within forty-five days of the date the Governor receives the
151 recommendations of the commission. When considering the
152 nomination of an incumbent judge for reappointment to the same
153 court, the Governor may nominate the incumbent judge if the
154 commission did not deny recommendation for reappointment.
155 Whenever an incumbent judge is denied recommendation for
156 reappointment to the same court by the commission or is
157 recommended by the commission but not nominated by the Governor
158 for reappointment to the same court, or whenever a vacancy in a
159 judicial position occurs or is anticipated, the Governor shall choose a
160 nominee from the list of candidates compiled pursuant to subsection
161 (f) of this section.

162 (2) Notwithstanding the provisions of subdivision (1) of this
163 subsection and subsection (f) of this section, the Governor may
164 nominate an associate judge of the Supreme Court to be Chief Justice
165 of the Supreme Court without such judge being investigated and
166 interviewed by the commission and being on the list of qualified
167 candidates compiled and submitted to the Governor by the
168 commission. An associate judge of the Supreme Court who has been
169 nominated by the Governor to be Chief Justice of the Supreme Court in
170 accordance with this subdivision, and who is appointed Chief Justice
171 by the General Assembly, shall serve an initial term as Chief Justice
172 equal to the remainder of such judge's term as an associate judge of the
173 Supreme Court.

174 (3) When considering the nomination of an incumbent state referee
175 for reappointment, the Governor may nominate the incumbent state
176 referee if the commission did not deny recommendation for
177 reappointment.

178 (i) A majority of the membership of the commission shall constitute
179 a quorum. The affirmative vote of at least a majority of the members of

180 the commission present and voting shall be required for any action by
181 the commission, except (1) an affirmative vote of at least a majority
182 plus one of the members present and voting shall be required for a
183 new nominee to be recommended to the Governor for nomination as a
184 judge or for an incumbent judge to be recommended to the Governor
185 for nomination as a judge to a different court, and (2) an affirmative
186 vote of a majority plus one of the members present and voting shall be
187 required to deny recommendation to the Governor for nomination of
188 an incumbent judge to the same court or for nomination of a state
189 referee for reappointment. No vote of the commission on a new
190 nominee shall be by secret ballot. The vote of the commission on an
191 incumbent judge or state referee may be by secret ballot.

192 (j) Except as provided in subsections (e) and (m) of this section, the
193 investigations, deliberations, files and records of the commission shall
194 be confidential and shall not be open to the public or subject to
195 disclosure, except that the criteria by which candidates, [or] incumbent
196 judges who seek reappointment to the same court or appointment to a
197 different court or incumbent state referees who seek reappointment are
198 evaluated and the procedural rules adopted by the commission shall
199 be public.

200 (k) The commission may employ such staff as is necessary for the
201 performance of its functions and duties.

202 (l) No member of the commission who is an attorney-at-law shall be
203 considered for recommendation to the Governor for nomination as a
204 judge during [his] such member's tenure on the commission or for a
205 period of two years following the termination of [his] such member's
206 tenure on the commission.

207 (m) In January of each year, the chairperson of the commission shall
208 report to the joint standing committee [on] of the General Assembly
209 having cognizance of matters relating to the judiciary the following
210 information: (1) The number of candidates interviewed for
211 appointment as new nominees, the number of incumbent judges

212 interviewed for reappointment to the same court, [and] the number of
 213 incumbent judges interviewed for appointment to a different court and
 214 the number of incumbent state referees interviewed for reappointment,
 215 (2) the number of candidates who were recommended and denied
 216 recommendation to the Governor as new nominees, the number of
 217 incumbent judges recommended and denied recommendation for
 218 appointment to the same court, [and] the number of incumbent judges
 219 recommended and denied recommendation for appointment to a
 220 different court and the number of incumbent state referees
 221 recommended and denied recommendation for reappointment, and (3)
 222 the statistics regarding the race, gender, national origin, religion and
 223 years of experience as members of the bar of all such candidates.

224 (n) The commission [shall have the power to] may enter into such
 225 contractual agreements as may be necessary for the discharge of its
 226 duties concerning the investigation of candidates seeking appointment
 227 to a judicial position, [and] incumbent judges seeking reappointment
 228 to the same court or appointment to a different court and incumbent
 229 state referees seeking reappointment, within the limits of appropriated
 230 funds and in accordance with established procedures.

231 Sec. 2. Subsection (a) of section 51-50l of the general statutes is
 232 repealed and the following is substituted in lieu thereof (*Effective*
 233 *October 1, 2007*):

234 (a) Each senior judge who ceases to hold office as a senior judge
 235 because of having reached the age of seventy years and who is an
 236 elector and a resident of this state shall be a state referee for the
 237 remainder of [his] such senior judge's term of office as a judge and
 238 shall be eligible for appointment as a state referee during the
 239 remainder of [his] such senior judge's life in the manner prescribed by
 240 law for the appointment of a judge of the court of which [he] such
 241 senior judge is a member, subject to the provisions of section 51-44a, as
 242 amended by this act.

243 Sec. 3. Subsection (a) of section 52-434 of the general statutes is

244 repealed and the following is substituted in lieu thereof (*Effective*
245 *October 1, 2007*):

246 (a) (1) Each judge of the Supreme Court, each judge of the Appellate
247 Court, each judge of the Superior Court and each judge of the Court of
248 Common Pleas who ceases or has ceased to hold office because of
249 retirement, other than under the provisions of section 51-49, and who
250 is an elector and a resident of this state shall be a state referee for the
251 remainder of such judge's term of office as a judge and shall be eligible
252 for appointment as a state referee during the remainder of such judge's
253 life in the manner prescribed by law for the appointment of a judge of
254 the court of which such judge is a member, subject to the provisions of
255 section 51-44a, as amended by this act. The Superior Court may refer
256 any civil [,] nonjury case or with the written consent of the parties or
257 their attorneys, any civil jury case pending before the court in which
258 the issues have been closed to a judge trial referee who shall have and
259 exercise the powers of the Superior Court in respect to trial, judgment
260 and appeal in the case, and any proceeding resulting from a demand
261 for a trial de novo pursuant to subsection (e) of section 52-549z may be
262 referred without the consent of the parties to a judge trial referee who
263 has been specifically designated to hear such proceedings pursuant to
264 subsection (b) of this section. The Superior Court may, with the
265 consent of the parties or their attorneys, refer any criminal case to a
266 judge trial referee who shall have and exercise the powers of the
267 Superior Court in respect to trial, judgment, sentencing and appeal in
268 the case, except that the Superior Court may, without the consent of
269 the parties or their attorneys, (A) refer any criminal case, other than a
270 criminal jury trial, to a judge trial referee assigned to a geographical
271 area criminal court session, and (B) refer any criminal case, other than
272 a class A or B felony or capital felony, to a judge trial referee to preside
273 over the jury selection process and any voir dire examination
274 conducted in such case, unless good cause is shown not to refer.

275 (2) Each judge of the Circuit Court who has ceased to hold office
276 because of retirement, other than under the provisions of section 51-49,

277 and who is an elector and a resident of this state shall be a state referee
278 for the remainder of such judge's term of office as a judge and shall be
279 eligible for appointment as a state referee during the remainder of such
280 judge's life in the manner prescribed by law for the appointment of a
281 judge of the court of which such judge is a member, subject to the
282 provisions of section 51-44a, as amended by this act, to whom the
283 Superior Court may, with the written consent of the parties or their
284 attorneys, refer any case pending in court in which the issues have
285 been closed and which the judges of the Superior Court may establish
286 by rule to be the kind of case which may be heard by such referees
287 who have been appointed judge trial referees pursuant to subsection
288 (b) of this section. The judge trial referee shall hear any such case so
289 referred and report the facts to the court by which the case was
290 referred.

291 (3) Each judge of the Juvenile Court who ceases or has ceased to
292 hold office because of retirement, other than under the provisions of
293 section 51-49, and who is an elector and a resident of this state shall be
294 a state referee for the remainder of such judge's term of office as a
295 judge and shall be eligible for appointment as a state referee during the
296 remainder of such judge's life in the manner prescribed by law for the
297 appointment of a judge of the court of which such judge is a member,
298 subject to the provisions of section 51-44a, as amended by this act, to
299 whom a judge before whom any juvenile matter is pending may, with
300 the written consent of the child concerned, either of such child's
301 parents, or such child's guardian or attorney, refer any juvenile matter
302 pending, provided such referee has been appointed a judge trial
303 referee specifically designated to hear juvenile cases pursuant to
304 subsection (b) of this section. The judge trial referee shall hear any
305 matter so referred and report the facts to the court for the district from
306 which the matter was referred.

307 (4) In addition to the judge trial referees who are appointed
308 pursuant to subdivision (1), (2) or (3) of this subsection, the Chief
309 Justice may appoint, from qualified members of the bar of the state,

310 who are electors and residents of this state, as many state referees as
311 the Chief Justice may from time to time deem advisable or necessary.
312 No appointment of a member of the bar may be for a term of more
313 than three years. Notwithstanding the provisions of subsection (f) of
314 this section, state referees appointed by the Chief Justice from
315 members of the bar shall receive such reasonable compensation and
316 expenses as may be determined by the Chief Justice. The Superior
317 Court may appoint a state referee pursuant to this subdivision to take
318 such evidence as it directs in any civil [.] nonjury case including, but
319 not limited to, appeals under section 8-8. Any such state referee shall
320 report on such evidence to the court with any findings of fact. The
321 report shall constitute a part of the proceeding upon which the
322 determination of the court shall be made.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	51-44a
Sec. 2	<i>October 1, 2007</i>	51-50l(a)
Sec. 3	<i>October 1, 2007</i>	52-434(a)

Statement of Purpose:

To provide that incumbent state referees seeking reappointment shall be evaluated and recommended by the Judicial Selection Commission.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]